CASE LAW UPDATES

Case Brief: In Re Waqf (Amendment) Act, 2025

Shruti chauhan · 15 Sep 2026

Few laws in recent memory have triggered as many petitions as fast as the Waqf (Amendment) Act, 2025. Within weeks of its notification, over sixty petitions landed before the Supreme Court, challenging almost every major change it introduced.

Citation and Bench of In Re Waqf (Amendment) Act, 2025

Case Name: In Re: Waqf (Amendment) Act, 2025; Asaduddin Owaisi v Union of India

Citation: 2025 INSC 1116

Court: Supreme Court of India

Bench: Chief Justice B.R. Gavai and Justice Augustine George Masih

Docket: W.P. (C) No. 269/2025

Facts of the Case

A waqf is a permanent dedication of property by a person, called a waqif, for purposes recognised as religious, pious, or charitable under Muslim law, as defined under Section 3(r) of The Waqf Act, 1995. Once dedicated, the property becomes inalienable, meaning it cannot be sold, gifted, or inherited.

The Waqf Act, 1995, along with amendments made in 2013, had governed the administration of such properties for decades through State Waqf Boards and the Central Waqf Council under Section 9.

Parliament enacted the Waqf (Amendment) Act, 2025, renaming the parent statute the Unified Waqf Management, Empowerment, Efficiency and Development Act. The amendment introduced several significant changes, four of which became central to the litigation.

The five year practising Muslim requirement. The amended Section 3(r) added a condition that only a person who has practised Islam for at least five years can create a waqf.

Abolition of waqf by user. Previously, land used for Muslim religious or charitable purposes over a long period could be treated as waqf even without formal registration. The amendment removed this concept entirely from Section 3(r).

Removal of limitation exemption. Section 107 was substituted to make the Limitation Act, 1963 applicable to waqf property disputes, removing an earlier exemption that had shielded such claims from ordinary limitation periods.

Expanded powers for District Collectors. The newly inserted Section 3C allowed a District Collector to determine whether a disputed property is government property, even while conducting the underlying inquiry into that very question.

Procedural History of the Case

Around sixty five writ petitions challenging the constitutional validity of the amendment were filed across the country and subsequently consolidated before the Supreme Court under Article 32. Petitioners included AIMIM MP Asaduddin Owaisi, several political parties, and civil society organisations.

The Bench heard arguments over multiple days, limiting itself at this stage to the narrow question of whether any interim relief, such as a stay, was warranted, while reserving the larger constitutional challenge for final hearing.

Issues

1. Whether courts should stay a validly enacted statute at the interim stage, and if so, under what standard.
2. Whether Section 3(r), requiring five years of practising Islam to create a waqf, violates Article 25 and Article 26 of the Constitution.
3. Whether the abolition of the "waqf by user" doctrine and the removal of the limitation exemption are manifestly arbitrary.
4. Whether Section 3C, allowing a District Collector to determine the status of disputed property during a pending inquiry, violates natural justice and separation of powers.
5. Whether the composition of the Central Waqf Council and State Waqf Boards, as amended, infringes the right under Article 26 to manage religious affairs.

Arguments of the Petitioners

The petitioners argued that the amendments interfered with the community's right under Article 26 to manage its own religious affairs without external interference. They contended that Section 3(r) was impossible to apply fairly, since there is no objective test to determine how long a person has practised a religion.

On Section 3C, petitioners argued that allowing a Collector to treat disputed property as government property during a pending inquiry violated basic principles of natural justice, since it prejudged the very question the inquiry was meant to answer.

Arguments of the Union of India

The Union defended the amendments as necessary reforms to prevent misuse of the waqf framework, particularly instances where properties were fraudulently declared as waqf to evade legitimate claims. It argued that none of the provisions were ex facie unconstitutional, and that interim stays on a parliamentary enactment should be granted only in the rarest of cases.

The Union also pointed to the legislative history dating back to 1923, arguing that registration requirements for waqf properties were nothing new and had simply been tightened.

Holding

The Supreme Court declined to stay the Act in its entirety, but granted a targeted, partial stay on specific provisions, based on the following findings.

On the threshold for interim relief: The Court held that courts should be very slow to stay provisions of a validly enacted statute. Such relief can only be granted in rare and exceptional cases, where the petitioners show either legislative incompetence or that the provisions are ex facie in violation of Part III of the Constitution or are manifestly arbitrary.

On Section 3(r), the five year rule: The Court found the underlying legislative concern, preventing misuse through opportunistic conversion, to be genuine. However, since there was no mechanism to verify how long a person had practised Islam, the Court stayed this specific requirement until the Union frames clear implementing rules.

On the abolition of waqf by user: The Court declined to stay this change, citing significant potential for misuse in encroaching upon government lands, and found no prima facie case for interference.

On the registration requirement: The Court upheld this provision, observing that registration of waqf properties had been required under Indian law as far back as 1923. Mutawallis who had failed to register their properties for over a century could not now argue the requirement was arbitrary.

On Section 3C, District Collector powers: The Court partly stayed this provision, holding that disputed property cannot be treated as government property merely because a Collector's inquiry into that question is pending. The property must retain its earlier status until the inquiry concludes.

On Board and Council composition: The Court directed that the Central Waqf Council have no more than four non-Muslim members, and State Waqf Boards no more than three, and that Boards should aim to have a Muslim ex officio chairperson wherever possible.

Ratio Decidendi

A court will stay a provision of a validly enacted law at the interim stage only where the provision suffers from a procedural gap that makes fair implementation impossible, such as Section 3(r) lacking any verification mechanism, or where it authorises a prejudgment of a question still under inquiry, such as Section 3C.

Mere policy disagreement, or a provision tightening an existing requirement like registration, does not meet this threshold, since courts must respect the presumption of constitutionality attached to parliamentary legislation until the contrary is clearly demonstrated.

Conclusion

The interim order in In Re Waqf (Amendment) Act, 2025 reflects a provision by provision approach rather than an all or nothing verdict. By staying only the provisions it found procedurally deficient or prone to prejudgment, while upholding the broader reforms aimed at preventing misuse, the Court has preserved the framework for a detailed final verdict once the matter is heard on merits.